IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

WP(C).No. 2733 of 2007(A)

PETITIONER:

THE MUSLIM EDUCATIONAL SOCIETY (REGD.),
CALICUT, REPRESENTED BY ITS,
GENERAL SECRETARY, DR.P.A.FAZAL GAFFOOR.

BY ADV. SRI.A.A.ABUL HASSAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVT.,
HIGHER EDUCATION DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. MAHATMA GANDHI UNIVERSITY,
PRIYADARSINI HILLS, KOTTAYAM,
REPRESENTED BY ITS REGISTRAR.

BY ADV.SRI.V.A.MOHAMMED, S.C.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.2733 OF 2007

Dated this the 31st day of January, 2007

JUDGMENT

Heard learned counsel for the petitioner and learned Standing Counsel for the second respondent.

2. Exts.P1 and P2, though dated 17.1.2006, it is pointed out by the learned counsel for the petitioner and the University that those letters are dated 17.1.2007. Those communications and Exts.P3 and P4 would show that as per letter dated 31.5.2006, the second respondent University had addressed the first respondent Government to express their views, if any, in the matter relating to grant of affiliation for new courses to the petitioner. With the passage of time, as of now, nearly seven months have elapsed and there is no response on the part of the Government. Therefore, it can be assumed that the Government does not have any objection in the decision of the University to grant affiliation for the courses, as sought for by the petitioner.

3. Going by the decisions of this Court in Exts.P5 and P6, to which I am in respectful agreement, the views of the Government are required only to ascertain the educational needs and such views are to be communicated to the University. This proposition of law is squarely covered in the decision reported in **Jaya Gokul Educational Trust** v. **Commissioner & Secretary to Government** {2000 (2) KLT 267 (SC)}. Though that decision is in the realm of recognition in the field of AICTE, there is no reason why the ratio of that decision cannot be applied to the fact situation in hand. In view of the aforesaid principle, any statute/law governing the University which requires the University to get the views of the Government on such a matter will have to be understood as only seeking the views of the Government and not one of approval, as rightly laid down in Ext.P5 judgment.

4. In the aforesaid circumstances, it is directed that the second respondent University will treat that the first respondent Government has no objection to the affiliation being granted for

the courses as sought for by the petitioner. Accordingly, the request of the petitioner to grant affiliation to the courses applied for by it, as referred to among the reliefs sought for in this writ petition, will be granted if otherwise entitled to, within a period of three weeks from the date of receipt of a copy of this judgment.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.